

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

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| DAVID PRESTON PARDUE | § | |
| VS. | § | CIVIL ACTION NO. 1:10-CV-730 |
| JOHN B. FOX, WARDEN | § | |

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, David Preston Pardue, an inmate formerly confined at the U.S. Penitentiary in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends respondent's motion for summary judgment for failure to exhaust administrative remedies be granted.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. Petitioner filed objections to the Report and Recommendation. After careful consideration, the Court finds the objections lacking in merit. As the Magistrate Judge correctly concluded, petitioner has failed to meet his burden of demonstrating such extraordinary circumstances as would warrant waiver of the exhaustion requirement. *See Mayberry v. Pettiford*, 74 Fed. Appx. 299, 299 (5th Cir. 2003).

ORDER

Accordingly, the objections of petitioner are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is

ADOPTED. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **16** day of **July, 2012**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge